

NOT APPEARED
ON PAGE A25.

WASHINGTON POST
13 October 1986

STAT³

Edwin M. Yoder Jr.

Free-Lance War

The downing of an American-built military transport plane of uncertain identity in Nicaragua may be no more than a blip in Ronald Reagan's wide-screen Central American policy. But blip or something more, it is an embarrassment.

The president and his aides insist that the flight (which seems to have originated in El Salvador, with a cargo of arms and supplies for the contras) is a free-lance operation unsanctioned by the United States.

This may be technically true. But it is patently disingenuous to say it. The president has made no secret of his wish that American private citizens raise money and supplies for his misguided crusade against the Sandinista government.

Indeed, having disavowed responsibility, the president reached for a strained historical parallel that implies his approval. He told the press in one of the shouting press conferences before going off to Iceland that they should recall the Abraham Lincoln Brigade of 1936—a band of volunteer American antifascist soldiers who went off to fight Gen. Franco in the Spanish Civil War. "Some of you," Reagan said to no one in particular, "approved."

But unlike the contra war against the government in Nicaragua, the Spanish Civil War was not of our making. The U.S. administration of that day so distanced itself from operations like the Lincoln Brigade that some sympathizers with the antifascist cause suspected President Roosevelt of secret pro-Franco sentiments. Certainly there was not the slightest hint of a presidential imprimatur for the Lincoln Brigade.

It is true that American freebooters have been involved in intrigues on foreign territory since the Burr conspiracy at least. The famous Western "filibusterers" helped prepare the ground for the Mexican War of 1846. But the pro-contra freebooting is the first to enjoy explicit presidential endorsement.

By coincidence, the shooting down of the plane in Nicaragua followed by less than 24 hours a fascinating CBS "60 Minutes" interview with John Singlaub, the general Jimmy Carter fired for questioning his Korean policy. Those who're struggling to distance the administration from "private" gunrunning in Central America must be embarrassed by Gen. Singlaub's soldierly candor, as witnessed by several million television viewers.

Singlaub has the clear impression that he's doing the administration's work, as well as the Lord's: tiding the Reagan administration over the temporary hiatus in its Nicaraguan war occasioned by congressional restraint.

The general told Mike Wallace that his private efforts in the contra behalf have earned him frequent murmurs of approval from his old World War II Office of Strategic Services boss, William Casey, now head of the CIA. Singlaub hopes that when public funding for the contra cause becomes available, the administration will reimburse him so that he can shift his money to good irregular causes elsewhere. No ambiguities there.

There is not, in American law, a military counterpart to the Logan Act—an old law that purports to bar private diplomacy by American citizens. Perhaps there should be. The hazards of allowing private warriors such as Gen. Singlaub to conduct "private wars" with the blessing of the White House should be obvious.

Presidents would no doubt find it a wonderful convenience, when Congress or the public balks at some distant crusade, to "privatize" foreign policy, i.e., to let it out on contract to Singlaub and others.

But constitutions are written to impose inconveniences on presidents, and my copy of the U.S. Constitution indicates that Congress is supposed to declare war when the United States decides to fight one. It is sadly true that such mechanical constitutional arguments are unlikely to restrain presidential war-making these days, when war short of nuclear holocaust is increasingly hard to define.

If Congress and the public lack the political energy and principle to discipline executive impulses, we are likely to find ourselves in unsanctioned wars and conflicts, often costly ones. Avoiding unwanted wars is very hard work—work from which there is no escape in constitutional theories that everyone affirms but no one follows.

STAT